

Section O

Motor Vehicle Fuels, Aircraft Fuels, Diesel Fuel, and Compressed Fuel Tax

BASIC PROVISIONS AND TAX BASE OF THE NEBRASKA TAX LAWS

Motor Vehicle Fuels

Motor vehicle fuels are subject to an excise tax imposed upon the importing, producing, refining, manufacturing, compounding, or blending of motor vehicle fuels in the state of Nebraska for use, distribution, sale, or delivery in this state. Motor vehicle fuels include all products commonly or commercially known as gasoline, gasohol, ethanol, casing head gasoline, and natural gasoline. Products such as naphtha, methanol, benzine, and benzol, although not defined as motor vehicle fuels, will be reported and tax remitted, if placed directly into a licensed motor vehicle or blended into gasoline at a point in the distribution chain after the refinery.

Reporting and remittance of the motor vehicle fuels tax is accomplished by businesses licensed as either a producer, supplier, distributor, wholesaler, importer, or exporter. Retailers, while licensed, no longer are required to file returns. Instead, they are subject to field record reviews. Liquid fuel carrier licenses and terminal operator licenses are required by businesses involved in the movement of motor vehicle fuels in the state of Nebraska. The proper license may be obtained by completion of the Nebraska Motor Fuels License Application, Form 20MF.

The tax is the total of the excise tax rate of 12.5 cents per gallon plus a variable excise tax rate set to meet appropriations, based upon the statewide average cost of motor vehicle fuels and diesel fuels purchased by the state. The rate is subject to change on a calendar semiannual basis. The total motor vehicle fuels tax per gallon for the first half of 2005 was 25.4 cents. For the second half of 2005 it was 25.3 cents. For the first half of 2006 it was 26.1 cents. For the second half of 2006 it is 27.1 cents.

The business importing or removing motor vehicle fuels from a Nebraska fuel pipeline terminal has the option to remit the tax or to pass the liability to a customer who is a licensed supplier, distributor, or wholesaler. If the tax liability is passed on to the customer, the customer must remit the tax to the state, and cannot subsequently sell that fuel tax free unless a qualified exemption applies. Qualified exemptions are sales in a state other than Nebraska, sales to the United States government or its agencies, and federal corporations wholly owned by the United States government, metropolitan transit authority, or sales on a Nebraska Indian reservation to a Native American residing on a Nebraska Indian reservation.

Unblended ethanol is subject to motor fuels tax when blended with gasoline, placed directly into a licensed motor vehicle, or sold to someone who is not licensed in Nebraska to engage in tax-free fuel transactions.

For tax years ending on or after January 1, 2005, persons may claim a refund of the tax paid on those gallons used for non-highway purposes. The refund is claimed by completing a Nebraska Motor Fuels Tax Refund Claim, Form 84. Claims may be submitted whenever the tax claimed on gasoline or diesel exceeds \$25 within a calendar year.

Aircraft Fuels Tax

The Nebraska Aircraft Fuels Tax is an excise tax imposed upon the importing, producing, refining, manufacturing, or compounding of aircraft fuels in the state of Nebraska for use, distribution, sale or delivery in this state. Aircraft fuels includes aircraft gasoline, jet fuel, or any other fuel used and consumed exclusively for the purpose of propelling aircraft. Aviation gasoline is taxed at five cents per gallon and aviation jet fuel is taxed at three cents per gallon.

Reporting and remittance of the aircraft fuels tax is accomplished by businesses licensed as a supplier, distributor, wholesaler, importer, exporter, or retailer. Liquid fuel carrier licenses and terminal operator licenses are required by businesses involved in the movement of aircraft fuels in the state of Nebraska. The proper license may be obtained by completion of the Nebraska Motor Fuels License Application, Form 20MF.

Diesel Fuel

Diesel fuels are subject to an excise tax imposed on undyed diesel received, imported, produced, refined, manufactured, blended, or compounded within the state of Nebraska, and on dyed diesel placed in licensed motor vehicles by governmental agencies. Governmental agencies placing dyed diesel in a licensed motor vehicle must remit diesel fuel consumer's use tax by filing the Nebraska Motor Fuels Consumer's Use Tax Return, Form 74. Diesel fuel includes all combustible liquids suitable for use in diesel-powered motor vehicles including bio-diesel blends. It does not include kerosene. Kerosene is subject to tax if it is blended with undyed diesel for use in a licensed motor vehicle.

Reporting and remittance of the tax is accomplished by businesses licensed as a producer, supplier, distributor, wholesaler, importer, or exporter. Liquid fuel carrier licenses and terminal operator licenses are required by businesses involved in the movement of diesel fuel in the state of Nebraska. The proper license may be obtained by completion of the Nebraska Motor Fuels License Application, Form 20MF.

Diesel fuels are taxed at the same rate as motor vehicle fuels.

The business importing into Nebraska or removing undyed diesel fuel from a Nebraska fuel pipeline terminal has the option to remit the tax or to pass the liability to a customer who is a licensed supplier, distributor, or wholesaler. If the tax is passed on to the customer, the customer must remit the tax to the state, and cannot subsequently sell that fuel tax free unless a qualified exemption applies.

Qualified exemptions are exports with sales or use in a state other than Nebraska, sales to the United States government, its agencies, and federal corporations wholly owned by the U.S. government, metropolitan transit authority, sales on a Nebraska Indian reservation to a Native American residing on a Nebraska Indian reservation, and sales of fifty gallons or less for use in a temperature control unit (reefer) or power-take-off unit.

Tax paid on the purchase of undyed diesel is subject to refund if there is a nonhighway use or use in an unlicensed motor vehicle. Refunds are requested by completing the Nebraska Motor Fuels Tax Refund Claim, Form 84.

Compressed Fuel Tax

The Nebraska Compressed Fuel Tax is an excise tax imposed on retail sales of compressed fuel being placed in a licensed motor vehicle or to an end user who intends to use the fuel by placing it in a licensed motor vehicle. Compressed fuel includes compressed natural gas, liquified petroleum gas, liquefied natural gas, and any other compressed fuel used to power a motor vehicle. Persons required to be licensed as a compressed fuel retailer are those who are engaged in the business of selling or otherwise providing compressed fuel to consumers of the fuel for use in a motor vehicle. A retailer who has equipment capable of dispensing compressed fuel into a motor vehicle must also be licensed as a compressed fuel retailer. Application for the required license is completed by submitting a Nebraska Motor Fuels License Application, Form 20MF.

The Nebraska Compressed Fuel Tax Rate is the same as the fuel tax rate on motor vehicle or diesel fuels. Purchases of compressed fuel to be placed in licensed motor vehicles by the federal government or on a Nebraska Indian reservation by a Native American that resides on the reservation, are exempt from the compressed fuel tax.¹

¹ Pursuant to section 66-741 of the Nebraska Revised Statutes, agreements are in effect with the Winnebago, and Santee Sioux; and, effective 10/1/05, the Omaha Tribe which eliminate this exemption on their reservation. These agreements, provide that the tribes will collect a tribal tax equivalent to the Nebraska motor fuel tax on all reservation sales. It further provides that the tribes shall remit a portion of that tax and retain the remaining portion. These agreements extend to all products subject to the Nebraska motor fuel tax.

MOTOR VEHICLE FUELS, AIRCRAFT FUELS, DIESEL FUEL, AND COMPRESSED FUEL TAX

Statutory Reference and Description	Estimated Tax Expenditure Cost NA=Not Available
EXEMPTIONS	
Section 14-1810 Motor vehicle, compressed, and diesel fuels sold to and used in the operations of a metropolitan transit authority are exempt from tax.	\$427,600
Sections 66-4,103 and 66-4,116 Exempts foreign or interstate commerce from motor fuel tax.	NA (State taxation prohibited)
Section 66-489 Natural gasoline purchased by producers for use as denaturant.	New
Section 66-489 Sold one time only to another licensed motor fuel distributor or wholesaler for resale purposes.	\$30,280,000
Section 66-489 Diesel fuel that has been dyed at the terminal rack and sold for non-highway use is not taxed.	NA
Section 66-489 Federal law prohibits the state from taxing the U.S. government or its agencies on their motor fuel purchases.	\$416,865 (State taxation prohibited)
66-495 Undyed diesel fuel used in the operation of temperature control units tor power take-off units may be purchased tax free, if the fuel is purchased in quantities of 50 gallons or less and placed directly into the supply tank of an engine not connected to the main supply tank of a licensed motor vehicle. The consumer of the fuel must submit an approved exemption certificate to the retailer and must also pay applicable sales tax.	NA
DEDUCTIONS	
Section 66-486 A motor vehicle fuel distributor, wholesaler, or importer can deduct a commission of five percent of the first \$5,000 and two and one-half percent upon all amounts above \$5,000, which is remitted each month.	\$6,245,350
Sections 66-486 and 3-148 An aircraft fuel distributor, wholesaler, or importer can deduct a commission of five percent of the first \$5,000 and two and one-half percent upon all amounts above \$5,000, which is remitted each month.	Minimal
Section 66-486 A diesel fuel distributor, wholesaler, or importer can deduct a commission of two percent of the first \$5,000 and one-half of one percent upon all amounts above \$5,000, which is remitted monthly.	\$694,510
Section 66-6,113 A compressed fuel retailer can deduct a commission of two percent of the first \$5,000 and one-half of one percent upon all amounts above \$5,000 remitted each tax period.	Minimal

CREDITS AND REFUNDS

Section 66-489

Buses equipped to carry more than seven persons for hire and engaged entirely in the transportation of passengers for hire within municipalities or within a radius of six miles thereof is refundable.

Minimal

Section 66-726, 66-489 and 66-741

Diesel, compressed, and motor vehicle fuels sold on a Nebraska Native American Indian reservation to a Native American Indian residing on a Nebraska Native American Indian reservation. This exemption does not apply to sales made on the Winnebago and Santee Sioux Reservations, and effective 10/1/05, the Omaha Reservation (See footnote 1 on page O-2).

\$96,046

Section 66-726

Refund of motor fuel tax is paid on fuel:

Destroyed	Minimal
Consumed by the United States Government or its agencies	\$416,865
Sold in a state outside Nebraska.....	\$141,681
On which there was an overpayment of taxes	Minimal
Agricultural, quarrying, industrial or other non-highway use.....	\$471,840

Section 66-726

Refund of aircraft fuel tax is paid on fuel:

Destroyed	None
Consumed by the United States Government or its agencies	\$11,194
Sold in a state outside Nebraska.....	None
On which there was an overpayment of taxes	None

Section 3-150

Any person who buys and uses aviation fuels for use in an FAA approved air school is entitled to a credit for the amount of tax paid.

Minimal

Section 66-1344 (4)

Beginning January 1, 2002, any new ethanol facility in production at the minimum rate on or before June 30, 2004, shall receive a non-refundable transferable credit of 18 cents per gallon up to 15,625,000 gallons per year. New facilities are eligible for 96 consecutive months while any existing facility which had not received credits prior to June 1, 1999, is eligible for 48 consecutive months.

\$14,473,751

PREFERENTIAL TAX RATES

Section 3-148

Aviation gasoline is subject to a tax of five cents per gallon; aviation jet fuel is subject to a tax of three cents per gallon.

\$1,125,500

RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.